



**The Association of the Bar of the City of New York
42 West 44th Street
New York, NY 10036**

Governor George E. Pataki
Executive Chamber
State Capitol
Albany, NY 12224

Re: S.7616 An act to amend the Environmental Conservation law, in relation to prohibiting the possession of wild animals as pets in New York State.

Dear Governor:

The Committee on Legal Issues Pertaining to Animals of the Association of the Bar of the City of New York offers its strong approval of Senate Bill 7616, which would prohibit the knowing possession, sale, barter, transfer, exchange or import of certain wild animals as pets.

The proposed legislation would have numerous beneficial effects. Many of the wild animals falling under this legislation are simply too dangerous to be kept as pets and pose a serious threat to the health and safety of the public. There have been instances of wild animals escaping their homes and attacking their owners and other people. Certain wild animals have been known to carry serious diseases that can be transmitted to people, such as Monkey Pox, Herpes B, Salmonella and Ebola virus. Recapturing escaped wild animals is expensive for municipalities and poses an unjustified risk to those individuals charged with their recapture. Police, firefighters and other rescue and emergency workers are also unnecessarily imperiled when, to perform their duties, they must enter private premises that contain wild animals. In recognition of this risk, the New York State Police Conference supports this legislation. Federal laws that pertain to wild animals primarily regulate the importation of exotics into the United States, and related commerce, but not private possession. (See, e.g., Endangered Species Act, 17 USC section 1538 *et seq.* (illegal to possess, sell or buy endangered species), the Public Health Service Act, 42 USC 289d (prohibits importation of non-human primates), the Lacey Act, 16 USC section 701; 17 USC sections 3371-3378 (permits prosecution of individuals who have illegally obtained exotic animals from another state or country), Animal Welfare Act 7 USC sections 2131-2156 (1996 and as amended) (regulates auction markets that sell exotic animals and commercial transport of exotics), and Captive Wildlife Safety Act, S.269 and H.R. 1006 (bars interstate and foreign commerce of dangerous exotics). The regulation of the private possession of wild animals falls to state

and local governments. New York City already prohibits the ownership of wild animals. (See New York City Health Code section 161.01.) A state-wide ban would serve to bridge the regulatory gaps left by local municipal ordinances and federal legislation and would provide a uniform regulatory framework for all of New York State's citizens. At least twenty states currently prohibit private ownership of certain wild animals as pets, a position supported by the United States Department of Agriculture, the Center for Disease Control and the American Veterinary Medical Association. (See American Veterinary Medical Association, "Exotic Animals and Wildlife," at www.avma.org/ppetexot.htm; United States Department of Agriculture, Animal and Plant Health Inspection Service, *Position Statement: Large and Wild Exotic Cats Make Dangerous Pets*," Miscellaneous Publication No. 1560, February 2000 and at www.aphis.usda.gov/ac/position.html; Centers for Disease Control and Prevention (CDC), "Errata: Vol. 48, No. 44, *Morbidity and Mortality Weekly Report*, Nov. 19, 1999, Vol. 48, No. 45: 1051.) Banning the ownership of wild animals as pets also serves to protect naive consumers who may be told by unscrupulous vendors that it is safe and appropriate to keep wild animals, such as monkeys, tigers and venomous snakes, as family pets. Finally, this legislation would ensure the humane treatment of wild animals that, by their nature, are not meant to live as pets.

Section 11-0103(6)(E) of the proposed legislation defines "wild animal" and sets out a detailed list of animals that are deemed wild. While it is the belief of this committee that the statutory definition of wild animal could be expanded to include additional species, this legislation represents an important first step in regulating the use of exotic animals as pets and includes many of the animals most at risk of being inappropriately kept as pets, including all non-human primates and non-domesticated cats.

Companion animals are expressly not included in the definition of wild animals and the proposed legislation would not apply to entities harboring wild animals for a purpose other than as a pet, such as wildlife shelters, zoological facilities, licensed exhibitors, research facilities, licensed wildlife rehabilitators, state universities and other state agencies working with animals and persons tending to, or transporting to veterinarians, sick or injured wild animals. The proposed legislation also provides a grandfather provision for persons possessing wild animals as pets prior to the effective date of the legislation.

The committee would like to note its particular approval of the revision of the provision exempting non-residents of the State who are traveling through it to limit it to a period of ten days, which will lower the risk to public health and safety posed by such travel and assist enforcement officials in curbing illegal animal trade, by shortening the window of time that traders could claim a legal right to remain within the State under the travel exception.

Section 11-0512(3) of the proposed legislation provides that a person who harbors a wild animal for use as a pet at the time that the legislation takes effect may retain possession of the animal for the remainder of the animal's life, provided the person obtains a permit from the Department. The proposed legislation lists certain criteria that the applicant

must meet in order to obtain a permit, in addition to any regulations established by the Department. These criteria laudably are aimed at ensuring the humane treatment of wild animals that would remain as pets, and include the following important requirements: permit applicants must be over twenty-one, may not have been convicted of an offense relating to animal cruelty, must provide the location of where the animal will be kept, a detailed description of the animal, the name, address and telephone number of the animal's veterinarian, an acknowledgement that the animal will not be bred, a detailed statement that the location in which the animal will be kept complies with all standards of care promulgated by the Department and at a minimum meets the standard of care set forth in the Federal Animal Welfare Act.

While these statutory requirements are important, the committee hopes that the Department will promulgate regulations that will further protect both the public and the wild animals who are subject to this statute. The committee thus recommends that the Department consider the following:

--require the permit applicant to provide a plan for the quick and safe recapture of the animal in the event it escapes.

--require that the applicant post and display at each possible entrance on the premises where the animal is kept, a conspicuous sign, clearly legible and understandable to the public (including a warning symbol that can readily be understood by children), warning that there is a wild animal on the premises. The Department should issue regulations on the exact content and size of the sign.

--require that the applicant obtain a certificate of good health from the veterinarian to be submitted as part of the permit application and submit a statement that the applicant has regularly provided veterinary care to the animal when needed and will provide such care in the future.

--require the inclusion of a photograph of the animal in the permit application.

--require that the permit-holder comply with the American Zoo and Aquarium Association ("AZA") Minimum Husbandry Guidelines for the type of animal in question, as opposed to the standards set forth in the Animal Welfare Act, 7 USC section 2131 *et seq.* (1996 and as amended), to ensure a higher level of protection in the State. (For more information on the AZA see www.aza.org);

--require the implant of a microchip, at the expense of the applicant, by or under the supervision of a veterinarian. This provision would not apply if a veterinarian determines that the implant would endanger the well being of the animal.

--require the Department to keep records of who is carrying a valid permit and require that the permit-holder must notify the Department of any changes in the information provided in the permit, which changes shall include the death of the animal.

--require that if the permit-holder can no longer care for the wild animal, the permit-holder may only transfer the wild animal to another permit-holder or a wildlife sanctuary as defined in the proposed legislation. The permit-holder should also be required to contact the Department or a wildlife sanctuary if he or she can no longer care for the animal, prior to euthanasia of the animal.

--provide that those entities charged with enforcement of the legislation (the Department, any peace officer of the State and the Society for the Prevention of Cruelty to Animals), have the right to inspect the premises on which the animal is kept to ensure compliance with the legislation.

--provide that if a wild animal escapes, either intentionally or unintentionally, the possessor of the wild animal shall immediately contact a law enforcement officer or environmental conservation officer or animal control officer of the city or county where the possessor resides to report the escape or release. The possessor should be held liable for all expenses associated with efforts to recapture the animal.

Finally, the proposed legislation provides for a maximum fine of \$500 for a first-time offender and a maximum fine of \$1000 for a repeat offender. While this committee would, in the future, support a much higher fine for repeat offenders, who have made a deliberate decision to flout the law, this provision is an important first step in curbing the possession of wild animals as pets in New York State.

For the reasons stated above, this committee strongly supports and urges you to sign the proposed legislation, which is a crucial public health and safety measure that will also serve to enhance animal welfare.

Sincerely,

The Committee on Legal
Issues Pertaining to Animals